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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,623	11/13/2003	Sandra Lynn True	LUTZ 2 00236	2152

48116 7590 02/22/2008  
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EXAMINER
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CONTEE, JOY KIMBERLY

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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02/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/712,623	Applicant(s) TRUE ET AL.	
	Examiner Joy K. Contee	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 20 September 2007.
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1,5,7,8,10-15,17 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,5,7,8,10-15,17,21-26 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All    b)  Some \* c)  None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1,5,7,8,10-15,17 and 21-26 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,5,7,8,10-15,17 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Higuchi et al. (Higuchi), US Patent Pub No. 2003/0216138, recently discovered.

Regarding claims 1, and 17, Higuchi discloses a method (and system for) of message delivery from a wireless calling party terminal using a wireless communications network to a called party terminal, wherein the called party terminal has call waiting, the method comprising: determining that the called party terminal's line is busy; delivering a "call waiting no answer" message to the calling party terminal; prompting the calling party to leave a message for the called party; and storing the message from the calling party on the wireless communications network; the wireless communications network determining that an undelivered message awaits the called

party after the called party terminal's line is no longer busy; and the wireless communications network delivering the message from the calling party to the called party terminal when the called party terminal's line is no longer busy (see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 5, HIGUCHI discloses the method of claim 1, wherein the storing step further comprises storing the message from the calling party in the called party's voice mail(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claims 7 and 25, respectively, Higuchi discloses the method defined in claims 6 and 17, wherein the call pickup timer includes a predetermined number of rings. (see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claims 8 and 26, respectively, HIGUCHI discloses the method defined in claims 6 and 17 wherein the call pickup timer includes a predetermined time period(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 10, HIGUCHI discloses the method defined in claim 1 further comprising allowing the called party to disable the method of message delivery thereby preventing the delivering, prompting and storing steps(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 11, Higuchi discloses the method defined in claim 1 further comprising allowing the calling party to enable the method of message delivery thereby

enabling the delivering, prompting and storing steps(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 12, HIGUCHI discloses the method defined in claim 11 further comprising allowing the calling party to enable the method of message delivery thereby enabling the delivering, prompting and storing steps even if the calling party does not have call waiting(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 13, Higuchi discloses the method defined in claim 11 wherein the calling party can enable the method of message delivery thereby enabling the delivering, prompting and storing steps even though the called party has disabled the feature(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 14, HIGUCHI discloses the method defined in claim 1 wherein the called party is using a cellular terminal(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claim 15, Higuchi discloses the method defined in claim 1 wherein the called party is using a wireline terminal(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).

Regarding claims 21-24, HIGUCHI discloses the method defined in claim 1 wherein the step of the network determining that an undelivered message awaits the called party after the called party terminal's line is no longer busy includes using a called party inter-MSC on-hook message indicating that the called party terminal's line is

no longer busy(see page 3 [0045] pages 4-5 [0062-0071] and page 6 [0087-0090] and page 7 [0094]).


**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K. Contee whose telephone number is 571.272.7906. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571.272.7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

  
JOY K. CONTEE  
PATENT EXAMINER